



MEMPHIS & SHELBY COUNTY BOARD OF ADJUSTMENT

125 North Main Street, City Hall, Room 468
MEMPHIS, TENNESSEE 38103

APPLICATION FOR VARIATION OR APPEAL FROM THE REQUIREMENTS OF THE UNIFIED DEVELOPMENT CODE

Property Owner of Record: _____ Phone #: _____

Mailing Address: _____ City/State: _____ Zip _____

Property Owner E-Mail Address: _____

Applicant (if not property owner): _____ Phone # _____

Mailing Address: _____ City/State: _____ Zip _____

Applicant E-Mail Address: _____

Authorized Agent: _____ Phone #: _____

Mailing Address: _____ City/State: _____ Zip _____

Engineer/Surveyor/Architect: _____ Phone # _____

(Add additional sheets if including more than one entity)

Mailing Address: _____ City/State: _____ Zip _____

Engineer/Surveyor/Architect E-Mail Address: _____

To the Chairman, Board of Adjustment:

Application is hereby made for {Variation(s), Appeal} from the requirements of Section(s) _____ of the Unified Development Code under the discretionary power vested in your Board by Section 9.22 to permit {erection, alteration of, maintenance} in accordance with the plans filed under application for Building or Use and Occupancy Permit dated _____ 20____.

PREMISES LOCATION (Describe by street address & directional location description, ex. 200 Johnson Street, North side of Johnson Street, 100 feet east of Brown Street) _____

and _____

_____ known as Number _____ (Street, Avenue, Road).

DESCRIBE PROPOSED {VARIATION (S), APPEAL} AND JUSTIFICATION FOR REQUEST.

Include applicable section reference from the Memphis/ Shelby County Unified Development Code for which relief is being sought from.

DESCRIPTION OF EXISTING OR PROPOSED BUILDING OR STRUCTURE

Size of Building or Structure:

At street level: _____ feet across front: _____ feet deep. Height: _____ Stories _____ feet high.

Occupancy: (a) Number of Families: (If any are used as dwellings): _____
(b) Number of Automobile Parking Spaces: _____

Use District: _____ Date of Erection: _____

Character of Construction: Frame ☐ Masonry ☐

Reinforced Concrete or Protected Steel Frame Other (Specify) _____

Has any previous application or appeal been filed with this Board on these premises? Yes _____ No _____
(If yes give date & docket #. of prior application) Date _____ Docket # _____

I (we) hereby make application for approval of the Zoning Ordinance/Regulations variation(s) being sought from described above and on the accompanying materials.

I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Board of Adjustment at the next available hearing date.

I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf.

| | | | |
|---|----------------------|---|----------------------|
| _____ *Property Owner of Record | _____ Date | _____ Applicant (if not property owner) | _____ Date |
|---|----------------------|---|----------------------|

* Property Owner of Record shall sign if not the applicant of the request for variation.

MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE
(Section 9.22.6)

VARIATIONS (Complete this form only if a variation is needed)

PROVIDE AN EXPLANATION TO THE FOLLOWING CRITERIA:

(Please response to all points listed below. Additional sheets may be added as needed)

9.22.6 Findings of Fact - The Board of Adjustment must make specific written findings of fact on each variance request. In granting any variance, the Board of Adjustment shall make the following findings:

A. Bulk and Other Non-Use Variances

1. Unusual characteristics of the property. The property is unusual in that it exhibits at least one of the following exceptional physical features as compared to other properties located in the same zoning district: exceptional topographic conditions, exceptional narrowness, exceptional shallowness, exceptional shape or any other extraordinary and exceptional situation or condition;
2. Practical difficulties or undue hardship. By reason of the unusual characteristics found to apply in Paragraph 1, the strict application of any regulation found in this Code would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property;
3. The unusual characteristic found to apply in Paragraph 1 is not the result from and deliberate action by the owner;
4. That a variance from the strict application of this Code may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of an adopted plan and this Code;
5. The requested variance will be in harmony with the purpose and intent of this development code and will not be injurious to the neighborhood or to the general welfare;

6. The variance is not granted simply because by granting the variance, the property could be utilized more profitably or that the applicant would save money.

Please only fill out the following space if a use variance is requested:

B. Use Variances

1. In addition to the findings established for other variances in Subsection A, the Board of Adjustment shall also find that none of the uses permitted on the property are practical due to either the unusual characteristic found to apply in Subsection A, Paragraph 1, or to any physical improvements made upon the property.

The following sections of the UDC are provided for informational purposes only:

2. Off-premise signs. No use variance may be requested for an off-premise sign. See also Tennessee Code Annotated Section 54-21-116 (the Billboard Regulation and Control Act of 1972). This Paragraph shall not be construed to prohibit consideration of bulk and other non-use variance for off-premise signs.
3. Use Variances and Special Use Permits. No use variance may be requested for any use that requires the issuance of a Special Use Permit by the appropriate legislative bodies in the zoning district of the subject property, except for the expansion, modification or legitimization of uses established, structures built or sites developed prior to the effective date of this Code (January 1, 2011). See Article 2 for uses requiring Special Use Permits.
4. Use Variances, Rezoning and Planned Developments. No use variance may be requested on a piece of property if, within 18 months of the time of the filing of the request for a use variance, the Land Use Control Board has voted upon a request to approve a rezoning or planned development on the subject property, or any portion of the subject property.
5. Time extensions and amendments to use variances approved by the Memphis City Council and Shelby County Board of Commissions shall be processed as Special Use revisions, pursuant to Subsection 9.6.12B of this Code.

MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE
(Section 9.23)

ADMINISTRATIVE APPEALS

*(Complete this section only if an appeal is made from an administrative interpretation of the UDC unrelated to a particular section. If you are appealing the Planning Director's denial of an administrative deviation, please fill out the **variance** section of the application.)*

1. Decision appealed:

2. Grounds for appeal:

3. Findings:

a. What is applicable law?

b. Was law correctly applied here (State reasoning):

CORRESPONDENCE CASES

(Complete this form only if a modification is requested to a variance or appeal already approved by the Board)

1. Date/Case Number of original approval:

2. Description of modification:

3. For time extensions, are any of the following factors present? (see Chapter 9.16 of the UDC):

- A. Changed conditions of the neighborhood and area in which the time extension is being made, as compared to conditions present during the original approval;
- B. Changed conditions of the site in which the request is being made, as compared to conditions present during the original approval;
- C. Any administrative or legislative policy, ordinance, regulation or comprehensive or neighborhood plan that has been adopted since the time of the original approval; and
- D. The scope of construction, such as the size of the site or building, involved with the original approval.

GUIDE FOR SUBMITTING BOARD OF ADJUSTMENT APPLICATION

A. **THE APPLICATION** - Four (4) collated sets of this application in accordance with the requirements of the Unified Development Code and as outlined below shall be submitted to OPD. The following information is required to be submitted for consideration as a complete application, and except for copies of the Site/Concept Plan, shall be provided on sheets of 8.5"x11" in size. The application with original signatures shall be completed either with legible print or typewritten. Each application set shall be compiled in the following order:

- 1) One (1) original Application, 8.5"x11" Site/Concept Plan, Survey, Legal Description, Vicinity Map, 2-3 sets of gummed-backed Mailing Labels, 2 sets of paper copied Mailing Labels, Letter of Intent, 20"x24" Site/Concept Plan (folded), copy of Deed(s).
- 2) Four (4) sets of copies in the following order: Application, 8.5"x11" Site/Concept Plan, Survey Legal Description, and Vicinity Map, Letter of Intent, 20"x24" Outline and/or Site/Concept Plans folded.
- 3) A compact disc with all submittal documents in "PDF" and any proposed conditions in "WORD".

(For additional information concerning these requirements contact Land Use Control Section at (901) 576-6619.)

B. **LETTER OF INTENT** - The letter shall include the following:

- 1) A brief narrative statement generally describing the nature, location and extent of the development and the market it is intended to serve.
- 2) A list of any professional consultants associated with the proposed development.
- 3) A written statement generally describing the relationship of the proposed development to the current policies and plans of the City and County. The statement shall include how the proposed development is to be designed, arranged and operated in order to limit impact to neighboring properties.
- 4) A description of the applicant's planning objectives, the approaches to be followed in achieving those objectives.

C. **SITE/CONCEPT PLAN** - Four (4) copies of the site/concept plan shall be submitted and depict the following: (a) property boundary lines and dimensions, existing utilities and easements, roadways, rail lines and public rights-of-way, crossing adjacent to the subject property; (b) the proposed height, dimensions and arrangements of buildings on the property; (c) the type and location of proposed landscaping; (d) the location of points of ingress/egress (driveways), parking lots and loading areas on the site; and (e) any proposed substantial re-grading of the site and any significant topographical or physical features of the site including water courses or ponds. Site/Concept plans shall be drawn at a scale of not less 1"=100' for developments of less than 150 acres, 1"=200' for developments between 150 and 1,000 acres, and 1"=300' feet for developments in excess of 1,000 acres.

D. **SURVEY**

A stamped and sealed survey by a registered surveyor or Professional Engineer of the subject site. For variance requests and appeals that do not involve new construction, the requirement for submitting a survey may be waived by the Office of Planning and Development.

E. **VICINITY MAP**

- 1) Four (4) copies showing the subject property (boldly outlined) and all parcels within a 500' radius. If the 500' radius includes less than 25 property owners, the radius shall be extended at

100' intervals to reach a minimum of 25 property owners provided, however, that the maximum total radius is 1,500'. Show for each parcel its dimensions, owner's name (on the vicinity map unless prior approval is given to do otherwise) and the public streets, alleys or private drives that it abuts. In situations where the parcels on the map are so small that the property owner's names are unable to fit and numbered legend is used, every effort should be made to place the legend on the map itself and not a separate sheet.

2) Three (3) copies of vicinity map without the owner's name.

F. **LIST OF NAMES AND ADDRESSES**

1) Two (2) complete lists of names and mailing addresses, including zip codes, of all owners shown on the vicinity map, typewritten on 1"x 2^{5/8}" self-adhesive mailing labels and 2 paper sets.

2) Two (2) self-adhesive mailing labels (1"x 2^{5/8}") each for the owner of record, applicant, representative and/or engineer/surveyor.

G. **FILING FEES** *(All Fees Are Subject To Change without Prior Notice)*

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|--|-------------------------|
| Single Family Detached Variance | \$150.00 |
| Single Family Attached Variance | \$250.00 |
| Multi-Family and Mobile Home Parks Variance | \$600.00 |
| excluding Sign Variance | plus \$5.00 per unit |
| Office, Commercial, Industrial or Institutional Variance | |
| excluding Sign Variance | \$1,000.00 |
| Intergovernmental | \$300.00 |
| Sign Variance (for Off-Premise Advertising Signs) | \$1,500.00 |
| Sign Variance (for On-Premise Signs) | \$300.00 |
| Appeal of Administrative Decision | \$100.00 |
| Correspondence (Revised Site Plan, Extensions, etc.) | \$300.00 |